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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,388	08/29/2000	Ilario A. Coslovi	5699-15	8495

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EXAMINER

JULES, FRANTZ F

ART UNIT PAPER NUMBER

3617

DATE MAILED: 02/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/650,388

Applicant(s)

COSLOVI ET AL.

Examiner

Frantz F. Jules

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-10 and 12-46 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- ☐ Interview Summary (PTO-413) Paper No(s). _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, in claim 19, the recitation "of the beam has a bottom flange and a plastic pad mounted to the bottom flange' must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Claim Objections

2. Claim 29 is objected to because of the following informalities:

In claim 29, line 2, the word "tow" should be --two--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4, 13-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 4 recites the limitation "the set of fittings" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

In claim 4, line 4, the phrase "a pivot pin" is confusing as it is unclear how it relates to previously recited a pivot pin above.

In claim 4, line 4, the phrase "a collar" is confusing as it is unclear how it relates to previously recited a collar above.

In claim 20, line 3, the recitation of "a first pivot fitting mountable to the first railroad car" is unclear because such a recitation is inconsistent with the preamble. The applicant should clarify what subject matter the claim is drawn to, i.e. either the sub-combination of the bridge plate alone or the combination of the bridge plate and the first railroad car. The examiner is considering the claim to be a combination claim. Applicant should amend the claim(s) accordingly. Similar combination/sub-combination problem exists in claim 13, line 10, with the recitation of "said first fitting being mountable to connect a second end of said beam to the second railroad car", claim 13, line 14, with the recitation of "said second fitting being mountable to connect a second end of said beam to the second railroad car", claim 24, lines 4-5, with the recitation of "said first pivot pin being mountable to the first railroad car", claim 24, lines 6-7, with the recitation of "said second pivot pin being mountable to the second railroad car",

In claim 20, Lines 6-7, the phrase "said second fitting including a linear extension member" is confusing as the bridge plate only shows a slot in the end without showing additional structure.

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In claim 33, lines 2-3, the phrase " a pair of adjacently coupled first and second railroad cars " is confusing as applicant claims plural while only one railroad car has been previously recited.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 3-7, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson

Claims 3-7, 12

Johnson teaches all the limitations of claims 3-7, 12 by showing in figs 1-8, a railroad car bridge plate comprising a beam (16) of sufficient length to span a gap between a pair of adjacent railroad cars (see column 1, lines 12-14), said beam (16) having an upwardly facing track surface for vehicles to ride on, said beam (16) having pivot fittings (14, 15) to permit yawing` movement in a cross-wise orientation relative to the railroad car, at least one grab hand (32) to facilitate manipulation of the bridge plate (16).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 8-10, 12-15, 17-18, 20-21, 23-26, 28-37, 39-42, 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Black Jr et al and Bell et al.

Claims 8-10, 12-15, 17-18, 20-21, 23-26, 28-37, 39-42, 44-46

Johnson teaches all the limitations of claims 8-10, 12-15, 17-18, 20-21, 23-26, 28-37, 39-42, 44-46 except for a railroad car bridge plate having fittings with pivot pin engageable in a collar at either one end or both ends including traction bars on the top surface of an Aluminum plate. The general concept of using fittings with pivot pin engageable in a collar at either one end or both ends of a bridge plate assembly of two railroad car units is well known in the art as illustrated by Black Jr et al, see figs. 5-9, abstract section, columns 1-2, lines 1-67. Also, the general concept of using traction bars on the top surface of an Aluminum bridge plate assembly of two railroad car units is well known in the art as illustrated by Bell et al, see fig. 1, column 1, lines 60-67, column 2, lines 49-51. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Johnson to include the use of fittings with pivot pin engageable in a collar at either one end or both ends of a bridge plate assembly of his advantageous bridge plate assembly as taught by Black Jr. et al in order to reduce the risk of failure in the plate at the pivot point by sharing the load across the bridge plate thereby reducing maintenance cost of the system. In addition, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Johnson to include the use of traction bars on the top surface of an Aluminum bridge plate

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assembly in his advantageous bridge plate as taught by Bell et al in order to increase surface traction of the bridge plate assembly thereby increasing safety.

Allowable Subject Matter

9. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 16, 19, 22, 27, 38, 43 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments filed 10/05/01 have been fully considered but they are moot in view of the new grounds of rejection and they are not persuasive.

A. Summary of applicant's argument

In the amendment, applicant traversed the rejection of claims 1-29, currently amended to claims 3-46 for the following reasons:

1. The prior arts used in the 102 rejection Black Jr. et al and Smith fail to meet the claim limitation of a bridge plate between two railroad cars.
2. A prima facie case of obviousness has not been established using the combination of Bell et al, Black Jr. et al and Smith as examiner fails to provide teaching or suggestion or motivation from the prior art to combine the references.

B. Response to applicant's argument

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1. Applicant's argument number one is moot in view of the new grounds of rejection and of the withdrawal of the previous ones.

2. Applicant argument regarding a lack of teaching or suggestion or motivation from the prior arts to combine the references is not understood as motivation to combine the references was provided in the rejection. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In the instant case, one of ordinary skill in the art would have found it obvious to incorporate fittings with pivot pin engageable in a collar at either one end or both ends of a bridge plate assembly between two cars as taught by Black Jr et al into Johnson in addition to inclusion of traction bars on the top surface of an Aluminum plate as taught by Bell et al to construct the claimed invention for the various reason listed above; as these prior arts establishes a prima facie case of obviousness that would suggest the claimed invention to an ordinarily skilled artisan.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pezier, Pickles are cited to show related pivot structures for bridge plates having a pivot pin engageable in a collar.

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Douglas, Elder, Roels, and Shannon are cited to show related bridge plate for railroad cars having pivot system made of a collar and pin.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 308-8780. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 308-0230. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Frantz F. Jules
Examiner
Art Unit 3617

FFJ

February 16, 2002



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